

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

LEAH DENNIS,

Plaintiff,

v.

WELLS FARGO BANK NA  
AS TRUSTEE,

Defendant.

Civil Action No.: 10-5156 (JLL)

**OPINION**

**LINARES**, District Judge.

This matter comes before the Court by way of Defendant's (Wells Fargo NA as Trustee) motion to dismiss Plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). The Court has considered the submissions made in support and in opposition to the instant motion and no oral argument was heard. Fed.R.Civ.P. 78. Based on the reasons that follow, Defendant's motion is granted.

***LEGAL STANDARD***

For a complaint to survive dismissal, it "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Ashcroft v. Iqbal, --- U.S. ----, ----, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009) (citing Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). In determining the sufficiency of a *pro se* complaint, the Court must be mindful to construe it liberally in favor of the plaintiff. See Erickson v. Pardus, 551 U.S. 89, 93-94, 127 S.Ct. 2197, 167 L.Ed.2d 1081 (2007). The Court must accept all well-pleaded factual allegations in the complaint as true and draw all reasonable inferences in favor of the non-moving party. See Phillips v. County of Allegheny, 515 F.3d 224, 234 (3d Cir.2008). Rule 8(a)(2) "requires only 'a short and plain statement of the claim showing that the pleader is entitled to relief,' in order to 'give the defendant fair notice of what the ... claim is and the grounds upon which it rests,'" Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555,

127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (quotations omitted). While the “proscriptions of Rule 8 apply to all Plaintiffs, when a Plaintiff is proceeding *pro se*, the court must construe the complaint liberally.” Alston v. Parker, 363 F.3d 229, 233-34 (3d Cir.2004). Further, a court should not dismiss a *pro se* complaint with prejudice without granting leave to amend, unless it finds bad faith, undue delay, prejudice, or futility. See Grayson v. Mayview State Hospital, 293 F.3d 103, 110-11 (3d Cir.2002); Shane v. Fauver, 213 F.3d 113, 117 (3d Cir.2000). With this framework in mind, the Court turns now to Defendant’s motion.

### **DISCUSSION**

In its entirety, Plaintiff’s complaint states:

Plaintiff, Leah Dennis, is filing a complaint of and [sic] unlawful proceeding in violation of the Fair Debt Collections Practices Act and the Truth in Lending Act. Said violation denied the Plaintiff, their Constitutionally Protected rights, Due Process, Discovery, and a fair and impartial court process. The Plaintiff requests a Stay of all State Court Proceedings until further ordered by a District Court Judge.

(Pl.’s Compl.).

Plaintiff’s Complaint, as currently drafted, fails to comply with the pleading requirements of Federal Rule of Civil Procedure 8(a) inasmuch as it fails to contain a short and plain statement of the claim showing that the pleader is entitled to relief. Aside from the Fair Debt Collections Practices Act and The Truth in Lending Act, as well as a passing reference to certain Constitutional rights, the Court cannot decipher the specific legal or factual basis on which Plaintiff alleges that Defendant violated her rights. In light of such uncertainty, and given the Court’s own inability to determine the actual theory underlying Plaintiff’s claims, the Court finds that Defendants have not been given proper notice of what the claim is and the specific grounds upon which it rests, in violation of Rule 8(a) of the Federal Rules of Civil Procedure. Given Plaintiff’s *pro se* status, the Complaint is dismissed without prejudice to file an amended complaint that cures the above referenced deficiencies.

### **CONCLUSION**

For the reasons set forth above, Plaintiff’s complaint is dismissed without prejudice to file an amended complaint within thirty (30) days. An appropriate Order accompanies this Opinion.

/s/ Jose L. Linares  
United States District Judge

DATED: May 11, 2011